

Redacted

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BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

11 In the Matter of the Accusation  
Against:  
12 ALVIS JOE SCULL, M.D.  
13 724 Mission Canyon Road  
Santa Barbara, California 93105  
14 Physician's & Surgeon's Certificate  
15 No. C-13184,  
16 Respondent.

NO. D-3932

STIPULATED SURRENDER OF  
PHYSICIAN'S AND SURGEON'S  
CERTIFICATE

18 IT IS HEREBY STIPULATED AND AGREED by and between the  
19 parties to the above-entitled proceedings as follows:

20 1. An Accusation, case number D-3932, is currently  
21 pending against Alvis Joe Scull, M.D. (hereinafter "respondent"),  
22 said Accusation having been filed with the Board on April 4,  
23 1989.

24 2. The complainant, Kenneth Wagstaff, is the Executive  
25 Director of the Division of Medical Quality of the Medical Board  
26 of California (hereinafter the "Board") and brought this action  
27 solely in his official capacity.

1           3.    The Accusation, together with all other  
2   statutorily required documents, was duly served on the respondent  
3   on or about April 4, 1989, and respondent filed his Notice of  
4   Defense contesting the Accusation on or about April 13, 1989.

5           4.    At all times relevant herein, respondent has been  
6   licensed by the Board of Medical Quality Assurance<sup>1/</sup> under  
7   Physician's & Surgeon's Certificate No. C-13184.

8           5.    The respondent has retained the firm of Kirtland &  
9   Packard, through Robert A. Muhlbach, Esq., to act as his legal  
10   counsel in this matter.

11          6.    The respondent and his attorney have fully  
12   discussed the charges contained in Accusation number D-3932, and  
13   the respondent has been fully advised regarding his legal rights  
14   and the effects of this stipulation.

15          7.    Respondent has received, read and understood the  
16   Accusation: Respondent has been fully advised by his counsel  
17   with regard to his rights. Specifically, respondent is aware of  
18   his right to a hearing on the charges, his right to confront and  
19   cross-examine witnesses against him, his right to the use of  
20   compulsory process to secure oral and documentary evidence both  
21   in defense and mitigation of the charges, his right to petition  
22   the Board for reconsideration of any adverse decision, and his  
23   right to appeal the Board's decision to courts of this state.  
24   With these factors in mind, the respondent does hereby freely,

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26           1.    As of January 1, 1990, the name of the Board of  
27   Medical Quality Assurance was changed to the Medical Board of  
  California.

1 voluntarily and irrevocably waive and give up his rights and  
2 stipulates that the charges pending against him in this action  
3 may be resolved by this stipulation.

4           8. In a desire to resolve and compromise the issues  
5 herein, and for no other purpose, respondent admits the truth of  
6 the Accusation and agrees that he has thereby subjected his  
7 license to disciplinary action. Respondent agrees to be bound by  
8 the Board's Disciplinary Order as set out below.

9           9. The respondent admits that his license is subject  
10 to disciplinary action under sections 490 and 2236 of the  
11 Business and Professions Code for the reason that he has been  
12 convicted of a crime which is substantially related to the  
13 qualifications, functions or duties of his profession. The  
14 circumstances surrounding this offense are as follows:

15           A. On March 14, 1989, in the Superior Court of the  
16 State of California for the County of Santa Barbara, in  
17 proceedings entitled "State of California vs. Alvis Joe  
18 Scull," case number 173392, the respondent was convicted  
19 upon his plea of no contest to Count One of a complaint  
20 alleging the crime of lewd acts upon the body of a child  
21 under the age of fourteen years, in violation of California  
22 Penal Code section 288(a).

23           B. Count One of the complaint to which the respondent  
24 plead no contest alleged that "on or between April, 1986,  
25 and June, 1986, at and in the County of Santa Barbara, State  
26 of California, the crime of violation of Section 288(a) of  
27 the California Penal Code, a felony, was committed by Alvis

1 Joe Scull, who at the time and place last aforesaid, did  
2 willfully, unlawfully and feloniously and lewdly commit a  
3 lewd and lascivious act upon and with the body and certain  
4 parts and members thereof of A [REDACTED] C [REDACTED] B [REDACTED], age 10, a  
5 child under the age of fourteen years, with the intent of  
6 arousing, appealing to, and gratifying the lust, passions  
7 and sexual desires of the said defendant and/or the said  
8 child."

9 C. At the time of the commission of the acts alleged  
10 in Count One of the Complaint, the victim, A [REDACTED] C [REDACTED]  
11 B [REDACTED], was a patient seeking care in the respondent's  
12 psychiatric office.

13 10. The respondent further admits that, by reason of  
14 the foregoing facts, he has subjected his license to disciplinary  
15 action under section 726 of the Business and Professions Code.

16 11. The admissions made herein are solely for the  
17 purpose of settlement of these proceedings and may not be used in  
18 any other action, other than in actions against respondent  
19 arising before the Board.

20 12. In consideration of the foregoing recitals and  
21 admissions, the parties stipulate and agree that the Board shall,  
22 without further notice or formal proceeding, issue the following  
23 order:

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Respondent shall forthwith deliver his original license and wallet certificate to the Medical Board of California.

Should respondent wish to resume the practice of medicine in California, he may do so only if his physician's and surgeon's certificate is reinstated in accordance with section 2307 of the Business and Professions Code. Nothing herein shall prejudice his right to petition for reinstatement; however, no such petition may be filed within one year following the effective date of this order, nor shall it be considered while the respondent is under sentence for any criminal offense, including any period during which the respondent is on court-imposed probation or parole.

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This stipulation shall be subject to the approval of the Division of Medical Quality. If the Division of Medical Quality fails to adopt this stipulation, the stipulation shall be of no force or effect for either party, nor shall it be mentioned or referred to in any legal action between the parties.

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ACCEPTANCE

I have read the above Surrender of Physician's and  
Surgeon's Certificate, understand its terms, and agree to be  
bound thereby.

DATED: 2/13/90

Alvis Joe Scull M.D.  
ALVIS JOE SCULL, M.D.  
Respondent

DATED: 1-23-90

KIRTLAND & PACKARD

Robert A. Muhlbach  
ROBERT A. MUHLBACH, ESQ.  
Attorneys for Respondent

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**DATED:**

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1                                    DECISION AND ORDER  
2                                    OF THE DIVISION OF MEDICAL QUALITY

3                    The foregoing Stipulated Surrender of Physician's and  
4 Surgeon's Certificate in case number D-3932 is hereby adopted as  
5 the decision of the Division of Medical Quality of the Medical  
6 Board of California. This order shall be effective on  
7 April 25, 1990.

8                    Made this 25th day of April, 1990.

9                                    *Theresa Classen*  
10                                   FOR THE DIVISION OF MEDICAL QUALITY  
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9 Attorneys for Complainant

10 BEFORE THE  
 11 BOARD OF MEDICAL QUALITY ASSURANCE  
 12 DIVISION OF MEDICAL QUALITY  
 13 DEPARTMENT OF CONSUMER AFFAIRS  
 14 STATE OF CALIFORNIA

15 In the Matter of the Accusation  
 16 Against:

NO. D-3932

17 ALVIS JOE SCULL, M.D.  
 18 724 Mission Canyon Road  
 19 Santa Barbara, California 93105

A C C U S A T I O N

20 Physician's & Surgeon's  
 21 Certificate No. C-13184,

Respondent.

22 The complainant alleges:

23 PARTIES

24 1. The complainant, Kenneth Wagstaff, is the  
 25 Executive Director of the Board of Medical Quality Assurance  
 26 (hereinafter the "Board") and brings this accusation solely in  
 27 his official capacity.

2. On February 15, 1951, Physician's & Surgeon's  
 Certificate license number C-13184 was issued by the Board to

1 Alvis Joe Scull, M.D. (hereinafter "respondent"), and at all  
2 times relevant to the charges herein brought, said license has  
3 been in full force and effect.

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5 JURISDICTION

6 3. Section 2227 of the California Business and  
7 Professions Code (hereinafter the "Code") provides that the  
8 Division of Medical Quality may revoke, suspend for a period not  
9 to exceed one year, or place on probation, the license of any  
10 licensee who has been found guilty under the Medical Practice  
11 Act.

12 4. Section 2234(a) of the Code provides that  
13 unprofessional conduct includes, but is not limited to violating  
14 or attempting to violate, directly or indirectly, or assisting in  
15 or abetting the violation of, or conspiring to violate, any  
16 provision of the Medical Practice Act.

17 5. Section 2236 of the Code provides that the  
18 conviction of any offense substantially related to the  
19 qualifications, functions, or duties of a physician and surgeon  
20 constitutes unprofessional conduct within the meaning of the  
21 Medical Practice Act. Said section further provides that the  
22 division may inquire into the circumstances surrounding the  
23 commission of the crime in order to fix the degree of discipline  
24 or to determine if such conviction is of an offense substantially  
25 related to the qualifications, functions, or duties of a  
26 physician and surgeon. A plea or verdict of guilty or a  
27 conviction following a plea of nolo contendere made to a charge

1 substantially related to the qualifications, functions, or duties  
2 of a physician and surgeon is deemed to be a conviction within  
3 the meaning of this section. Discipline may be ordered in  
4 accordance with section 2227, or the Division of Licensing may  
5 order the denial of the license when the time for appeal has  
6 elapsed, or the judgment of conviction has been affirmed on  
7 appeal, or when an order granting probation is made suspending  
8 the imposition of sentence, irrespective of a subsequent order  
9 under the provisions of Section 1203.4 of the Penal Code allowing  
10 such person to withdraw his or her plea of guilty and to enter a  
11 plea of not guilty, or setting aside the accusation, complaint,  
12 information or indictment.

13           6. Section 490 of the Code provides that a board may  
14 suspend or revoke a license on the grounds that the licensee has  
15 been convicted of a crime, if the crime is substantially related  
16 to the qualifications, functions, or duties of the business or  
17 profession for which the license was issued, or the ground of  
18 knowingly making a false statement of fact required to be  
19 revealed in an application for such license. A conviction within  
20 the meaning of this section means a plea or verdict of guilty or  
21 a conviction following a plea of nolo contendere. Any action  
22 which a board is permitted to take following the establishment of  
23 a conviction may be taken when the time for appeal has elapsed,  
24 or the judgment of conviction has been affirmed on appeal, or  
25 when an order granting probation is made suspending the  
26 imposition of sentence, irrespective of a subsequent order under  
27 the provisions of Section 1203.4 of the Penal Code.

1           7.    Section 726 of the Code provides that the  
2 commission of any act of sexual abuse, misconduct, or relations  
3 with a patient, client or customer which is substantially related  
4 to the qualifications, functions, or duties of the occupation for  
5 which a license was issued constitutes unprofessional conduct and  
6 grounds for disciplinary action.

7           8.    Section 727 provides that the provisions of  
8 subdivision (2) of Section 1103 of the Evidence Code shall apply  
9 in disciplinary proceedings brought against a licensee for acts  
10 in violation of section 726.

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12                           FIRST CAUSE OF ACTION  
13                           (Conviction of A Substantially Related Crime)

14           9.    The respondent's license is subject to  
15 disciplinary action under sections 490 and 2236 of the Code for  
16 the reason that he has been convicted of a crime which is  
17 substantially related to the qualifications, functions or duties  
18 of his profession. The circumstances surrounding this offense  
19 are as follows:

20           A.    On or about March 14, 1989, in the Superior Court  
21 of the State of California for the County of Santa Barbara,  
22 in proceedings entitled "State of California vs. Alvis Joe  
23 Scull," case number 173392, the respondent was convicted  
24 upon his plea of no contest to Count One of a complaint  
25 alleging the crime of lewd acts upon the body of a child  
26 under the age of fourteen years, in violation of California  
27 Penal Code section 288(a).

1           B.    Count One of the complaint to which the  
2           respondent plead no contest alleged that "on or between  
3           April, 1986, and June, 1986, at and in the County of Santa  
4           Barbara, State of California, the crime of violation of  
5           Section 288(a) of the California Penal Code, a felony, was  
6           committed by Alvis Joe Scull, who at the time and place  
7           last aforesaid, did willfully, unlawfully and feloniously  
8           and lewdly commit a lewd and lascivious act upon and with  
9           the body and certain parts and members thereof of A [REDACTED]  
10          C [REDACTED] B [REDACTED], age 10, a child under the age of fourteen  
11          years, with the intent of arousing, appealing to, and  
12          gratifying the lust, passions and sexual desires of the  
13          said defendant and/or the said child."

14           C.    At the time of the commission of the acts alleged  
15          in Count One of the Complaint, the victim, A [REDACTED] C [REDACTED]  
16          B [REDACTED], was a patient seeking care in the respondent's  
17          psychiatric office.

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19                   SECOND CAUSE OF ACTION  
20                   (Sexual Abuse of Patient)

21           10.   By reason of the foregoing facts, the respondent  
22          has subjected his license to disciplinary action under section  
23          726 of the Code in that he has committed acts of sexual abuse,  
24          misconduct, or relations with a patient which are substantially  
25          related to the qualifications, functions, or duties of the  
26          occupation for which his license was issued. Such behavior  
27          constitutes unprofessional conduct and grounds for disciplinary

1 action.

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PRAYER

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WHEREFORE, complainant requests that a hearing be held  
on the matters alleged herein, and that following said hearing,  
the Division of Medical Quality issue a decision:

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1. Revoking or suspending Physician's & Surgeon's  
Certificate License Number C-13184, heretofore issued to  
respondent Alvis Joe Scull, M.D.;

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2. Taking such other and further action as the  
Division of Medical Quality deems proper.

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DATED: April 4, 1989

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Kenneth Wagstaff  
Executive Director  
Board of Medical Quality Assurance  
Department of Consumer Affairs  
State of California

Complainant